

On motion of Mr. Eppes, the rules of the Senate at its last Session were adopted and continued.

On motion, the Senate adjourned until to-morrow morning 11 o'clock.

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TUESDAY, November 29th, 1859.

Senate met pursuant to adjournment.

A quorum present.

Rev. Dr. DuBose officiated as Chaplain.

On motion of Mr. Baker, the reading of yesterday's Journal was dispensed with.

On motion of Mr. Eppes, the Door-keeper and Messenger were instructed to obtain copies of the Journal and Acts of the last Session, and to furnish each Senator with the same.

Notice was given of intention to introduce the following bills at some future day:

By Mr. Hawes:

A bill to be entitled an Act to incorporate the Palatka and Orange Railroad Company.

By Mr. McQueen:

A bill to be entitled an Act for the relief of Noah P. Suggs, of Lafayette county; and also,

A bill to be entitled an Act authorizing Geo. W. Martin to establish a Ferry across the Suwannee River at Fayetteville.

By Mr. Baldwin:

A bill to be entitled an Act to incorporate the Jacksonville and St. Augustine Railroad Company.

By Mr. Eppes:

A bill to be entitled an Act to amend an Act concerning dower.

Mr. Lamar moved that the Senate proceed to the election of an Assistant Secretary.

Mr. McElvy nominated Jacob Gibson, of Gadsden.

Mr. Lamar nominated Mr. A. L. Woodward, of Leon.

Mr. Welch nominated Mr. Robert Bruce, of Leon.

The vote was as follows:

For Gibson—Mr. President, Messrs. Baldwin, Eppes, Eubanks, Fisher, Hawes, Jones, McElvy and McQueen—9.

For Woodward—Mr. Lamar—1.

For Bruce—Messrs. Dawkins, Walker and Welch—3.

Blank—Mr. Baker—1.

Mr. Gibson was declared duly elected Assistant Secretary.

The Assistant Secretary was duly sworn in by T. J. Eppes, Esq., Notary Public.

A committee from the House consisting of Messrs. Davidson, Church and Erwin, appeared and informed the Senate that the House was organized and ready to proceed to business.

A committee appointed to wait upon his Excellency the Governor, and inform him of the organization of the Senate, reported that they had performed that duty, and were discharged.

Mr. Lamar moved that the rules be waived, to allow him to introduce a bill without previous notice;

Which motion was lost.

Notice was given of intention to introduce the following bills at some future day:

By Mr. Lamar:

A bill to be entitled an Act to amend an Act to permit free persons of African descent to select their own masters and become slave, approved January 15, 1859.

By Mr. McElvy:

A bill to define the times of Probate Courts in this State;

A bill to amend the tax laws of this State; and

A bill to amend the law allowing appeals from the Board of County Commissioners in this State.

The following Message from the House of Representatives was received and read:

HOUSE OF REPRESENTATIVES,
Nov. 28, 1859.

HON. JOHN FINLAYSON,

President of the Senate:

Sir:—The House of Representatives have passed the following bills:

Senate bill to be entitled an Act to extend the time of collecting taxes in this State;

House bill to be entitled an Act to establish a ferry across the Bay at Atseena Otie;

House bill to be entitled an Act to amend an Act entitled an Act to establish common schools, and to repeal certain acts in relation thereto, approved January 1st, 1853; and

House bill to be entitled an Act to amend the laws now in force in this State relative to ejectment suits.

Very Respectfully,

Your Obed't Serv't,

R. B. HILTON,

Clerk House Representatives.

The following message was received from his Excellency the Governor, and read:

GOVERNOR'S MESSAGE.

EXECUTIVE CHAMBER,
November 28th, 1859. }

Gentlemen of the Senate and House of Representatives:

You are assembled at the Capitol by virtue of your resolution of adjournment in January last, and I meet you now with the same interest as when it was plainly my duty to do so, at the commencement of the term fixed and prescribed by the Constitution, hoping that the continuation of your labors may result in much good to the State.

Circumstances have transpired since the adjournment of the Legislature, and measures have suggested themselves to my mind not embraced in my annual message, to which I invite your attention, in obedience to that clause in the Constitution which makes it the duty of the Executive to give to the General Assembly information of the state of the Government and recommend to their consideration such measures as he may deem expedient.

OFFICIAL REPORTS.

I invite your attention to the official reports of the Comptroller and Treasurer as to the financial condition of the State.

By reference to the report of the Comptroller, it will be seen that the receipts from the various sources for the fiscal year 1859 are \$106,022 35, and that the amount of warrants issued during same period is \$104,879 12. The finances of the State will require at your hands a rigid scrutiny into all the appropriations by the Legislature. The increased expenditures of the government are disproportioned to the increase of population, and the alternative of retrenchment or increased taxation is presented. The current expense for criminal prosecutions is largely on the increase, as well as

that of jurors and witnesses, and should be reduced, if consistent with a proper enforcement of the laws and administration of justice.

STATE LOAN.

By virtue of the authority vested in me by "An act to provide for the payment of the debts of the State," and the amendment thereto, I negotiated a loan for the State in the cities of Charleston and Savannah, through the agency of Col. John W. Pearson, of two hundred and forty-one thousand three hundred dollars, the greater part of which has been disbursed in payment of claims for services rendered in suppressing Indian hostilities during the years 1855 and 1856. The report in detail of the Disbursing Agent will be submitted to you in a few days, with a special recommendation that provision be made to insure the payment of the loan at maturity.

INTERNAL IMPROVEMENTS.

The progress of the several lines of railroad that have accepted the provisions of the "Act to provide for and encourage a liberal system of Internal Improvements in this State" has been onward. No State, perhaps, in the Union has accomplished more (under the circumstances) in so short a time. Four years ago, the St. Marks road, twenty miles in length and worked by horse power, was the only road in the State. We now have about 350 miles of road graded and about 230 miles of iron rail laid, upon which the cars are running daily, and the iron purchased to complete the balance of the roads graded. The Florida Railroad is 154, the Florida Atlantic and Gulf Central 60, the Pensacola and Georgia, from Tallahassee to Lake City, 105 and the St. Marks 21 miles in length, respectively. The St. Marks road has been completed for some time and pays a handsome dividend. The iron rails have been laid on about 130 miles of the Florida, 50 miles of the Florida Atlantic and Gulf

Central and 30 miles of the Pensacola and Georgia Railroads, respectively. The Florida and the Florida Atlantic and Gulf Central roads, it is expected, will be completed at an early date, and the Pensacola and Georgia road to Lake City by the 1st of July or August, 1860. The Pensacola and Alabama Railroad, 45 miles in length, is graded to the line dividing Florida and Alabama, upon which about 20 miles of iron rail has been laid and the iron purchased for the balance of the road. That portion of the work which lies in Alabama is being vigorously prosecuted and will be completed at an early date.

The Pensacola and Alabama Railroad Company have not accepted the provisions of the Internal Improvement law and are not required to report to the Trustees the gross receipts from the traffic of the road, and we have no data from that source upon which to base an estimate as to its earnings. When this road and other important roads now under course of construction, which will act as feeders to it, shall have been completed, the Company may reasonably expect a business which will insure its success.

A quickening impulse is manifest in every branch of business in the districts penetrated by the several lines of road. Large tracts of fertile land, hitherto overlooked for want of proper facilities of transportation, &c., are now attracting the attention of citizens from older and less favored States. Saw-mills and turpentine plantations are dotting the lines of road in sections heretofore inaccessible and furnish employment to a large number of industrious citizens, and give value to that class of lands which have been regarded until of late as valueless. Thriving villages have sprung up as by magic and will increase in importance in proportion to the settlement of the adjacent country of which they are the commercial centres. These evidences of prosperity but imperfectly foreshadow, however, the great importance of the system and the benefits which must result from its completion. The want of proper means of travel and transpor-

tation has heretofore proved a serious draw-back in the settlement of the State, but the lines of road have been in general so judiciously located as to almost entirely remove these objections. When the Internal Improvement system shall have been completed, and the fact become generally known that Florida possesses a genial, healthful climate, with large bodies of fertile land well adapted to the growth of corn, long staple and upland cotton, sugar, rice, Spanish tobacco and tropical fruits, together with an almost inexhaustible supply of valuable timbered lands, and to be had at cheaper rates than can lands of equal fertility in any of the cotton growing States, a state of prosperity will be realized beyond the expectation of its most sanguine friends.

In my first message to the General Assembly, I deemed it my plain unmistakable duty to report to them what I deemed an infringement and violation of the Internal Improvement law, in many respects, by one of the companies accepting its provisions. The General Assembly adjourned without any definite action, leaving me to act in accordance with my own views of duty. The course that would be pursued by me in such event was clearly foreshadowed in my annual message, and I accordingly withheld my signature from the bonds of the delinquent Company, when applied for by it, and guaranteed by a majority vote of the Board of Trustees, my reasons for doing which were at the time assigned in the following address to the Trustees, and which I deem it my duty to place before you:

Gentlemen of the Board of Internal Improvement:

Having determined that it is my duty to withhold my signature from the bonds of the Florida Railroad, which a majority of the Board has decided should be signed by the Trustees, I deem it respectful to you to state my reasons for my refusal to coincide in your action, and resort to a written statement of my reasons, to avoid any misconception of my official conduct, such as has been entertained by some not members of the Board, upon a misunderstanding

of the facts connected with the official transactions of this body.

It may, by some of your body, and by many of the citizens of the State, be thought that I should give to the bonds my signature, seeing that high legal authorities have determined that a majority of your body has the power to decide when the bonds of the Railroad Companies should be signed, as provided by law, and that the Trustees, having determined that the Florida Railroad Company is entitled to the guaranty of the Trustees on the bonds by that Company lately presented for such guaranty, that I, like any other member of the Board, am bound to acquiesce in such determination, although I may remain of the opinion that the public interest will suffer by my compliance, and that such Railroad Company is not legally or equitably entitled to receive the guaranty. Could I assent to such a view of the duties imposed on me by the Constitution and laws, it would relieve me of an unpleasant duty, and serve, no doubt, to harmonize conflicting interests and opinions that at present are greatly disturbed, and obtain for myself a peace and quiet I may greatly desire, and would much enjoy, did I think it properly acquired. But, deeming my duty to be other than what those for whose opinions I have great respect have considered it to be, I cannot acquiesce in the views taken of it, or adopt the course indicated or expected, however I may be made the sufferer by my refusal, or what may be the injury to persons who it is said will be affected by such refusal. I may and shall regret that any one should lose by my official acts, but such consequences cannot be permitted to sway my judgment in matters confided to my decision, any more than should the hardship of a legal decision turn a Judge from pronouncing a judgment which he believes it his duty to render.

In my annual message to the General Assembly I took occasion to call their attention to what I believed were improper and illegal acts on the part of the Florida Railroad Company, which, in my opinion, required legislative action to redress. This I did, acting under that clause of the constitution which requires the Executive "from time to time to give to the General Assembly information of the state of the Government, and recommend to their consideration such measures as he may deem expedient." The General Assembly appointed a joint committee of both

Houses to investigate the matter so brought by me to their attention. The committee took evidence, and made sundry reports, neither of which was signed by a majority. As a part, however, of that report signed by the largest number, a resolution was presented, which was intended to express the judgment of those signing the report, which was as follows:

"Resolved by the Senate and House of Representatives of the State of Florida, in General Assembly convened, That the Trustees of the Internal Improvement Fund be, and they are hereby requested, to guaranty the interest upon the Bonds of the several Rail Road Companies of this State, who have accepted the act approved January 4th, 1855, the Florida Railroad Company included," &c.

In the Senate, the vote on concurring in this resolution stood as follows: Yeas 9, Nays 6. In the House, on the motion to lay the resolution on the table, the vote was: Yeas 24, Nays 13. So the resolution was laid upon the table. This action can only be considered as a refusal on the part of the Legislature to agree to the affirmative action of those who signed the majority report, and so considered, the Legislature refused to order the Trustees to continue to endorse the Bonds of the Florida Railroad. There is no direction from the General Assembly addressed to us on the subject. Had the joint resolution passed both Houses, I would have given my assent, out of a disposition to conform to the action of the Legislature in matters of public policy.

It has been urged upon me by the Press and by individuals, that inasmuch as I had performed my duty by bringing the subject to the notice of the General Assembly, and that their action having been equivalent to a refusal to legislate, so as to remedy what I had declared in my opinion were abuses of the law and injuries to the public interests, I had performed my whole duty, and might properly acquiesce in what my judgment deemed an abuse of the law, sheltering myself from further censure, by alledging a failure on the part of the Legislature to co-operate with me in measures of redress. It has also been in like manner urged that the judgment of a majority of the joint committee was that the abuses by me alleged to have been committed by the Florida Railroad had no existence in fact or

in law, and that such judgment was conclusive, and should be satisfactory to me.

To all of these reasonings I am unable to yield my assent. I am still satisfied that the facts communicated to the General Assembly did exist, and that the view which I took of the law was correct. Nor do I admit that the failure on the part of the General Assembly to aid me in redressing what I believe injurious to the public interest absolves me from my sworn obligations to obey that part of the constitution wherein I am charged to "take care that the laws be faithfully executed."

I do not impeach the judgment of the General Assembly. They are independent of my control, except in so far as I may negative their action. I do not pretend to investigate the reasons which led the Legislature to omit any action, *pro* or *con*, on my recommendation. I had no power to be present and take part in their examination of the evidence touching the matter inquired into by the committee, and consequently I could neither examine to see whether all the evidence was obtained which was pertinent to the investigation, nor whether matters were allowed having no relevancy to the question to be solved.

The constitution provides that, "the power of the Government of the State of Florida shall be divided into three distinct departments, and each of these confided to a separate body of magistracy, to wit: Those which are Legislative to one, those which are Executive to another, and those which are Judicial to another." "No person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others, except in instances expressly provided in this constitution."—Art. 2, Constitution.

In obedience to this plain mandate it is that I determine to act as my own judgment and convictions lead me to believe it to be my duty, and not to exercise my office in conformity to the opinions of the Legislative branch of the Government, when my mind does not agree therewith; to do which, would destroy what the Constitution created, and requires to be preserved—the independence of the Executive and Legislative powers.

When I was chosen to fill the Executive office, it was expected that the State should have my judgment as the rule of my official actions, and however feeble it may be,

the voice of the people has decided that it shall determine whatever requires the executive approval.

Being thus by the Constitution made independent of the influences of legislative opinion, the same reason operating with greater force, I am not bound to abate my official duties, because of a decision made by the subordinate officers of the Executive Department of the Government, when acting under law regulating Internal Improvements, and sitting as ex-officio Trustees of the Internal Improvement fund. I may and do respect your persons and your opinions, but there is no law which will permit me to disobey that part of the Constitution which requires me to "take care that the laws be faithfully executed," because you may decide, (however your powers of mind may be superior to mine,) that there has been no violation of law, when I am of the opinion there have been many serious infractions of the law, greatly to the detriment of the public. The action of the people who placed me here, may have set up a weak judgment to control a more weighty and more powerful; yet under the Constitution, I am bound to exercise my own judgment, and not that of others.

Inasmuch as by the Constitution I am bound to see "that the laws be faithfully executed," I am forbid to do any act which would tend to aid in what my judgment convinces me would be a violation of the law and of public rights. The law which requires me to act as a member of the Board of Internal Improvement does not, by any fair construction, alter my duty in this respect. Had the power been expressly given by law to a majority of the board of Trustees to determine when the law had or had not been faithfully executed, instead of such power being made to rest on inference, such law would have been a nullity; because it would have been a violation of the Constitution, inasmuch as it would seek to take away from the Governor the right to determine in the first instance whether the law has or has not been violated. In doing this the Executive must construe the law; he may ask the advice of the Attorney General, but is not bound by his opinion, and may require that officer to act contrary to his own judgment.—And such construction of law made by the Governor is subject to no control but that of the judiciary, to whom is confided the power of finally settling what the law is. To this power I am subject in respect to what the law is, it being

the province of the judiciary to construe the law. But it is my province to cause such action to be taken as will procure the Judicial decision of law, when in my opinion the laws have been, or are about to be violated, and there is no special provision made for their faithful execution. In such event, I as Governor must refuse to participate in an act required of me, by any authority in the State, which I believe would tend to public injury and violate the spirit and reason of the law, and by means of such refusal, or by direct action (if need be,) obtain the Judicial aid to prevent the evil, (if evil there is,) or under the sanction of a judgment of the courts surrender my opinions and conform my action to such, which alone would warrant me in so doing.

You will perceive then, gentlemen, that holding the views I have expressed, I do not feel that when I am here doing a duty, which by law is added to my other duties as Governor of the State, I am deprived of any of the constitutional attributes of my office, or exempt from any of its responsibilities.

The duty I here perform, I do as a part of my office as Governor of the State, and all my actions under the law are done as Governor, and subject above all to be regulated by the Constitution, and my oath of office; and that I cannot waive what I believe my duty requires me to demand, although a majority of the Board may be of an opinion on the law and facts contrary to what I have arrived at after mature deliberation. I may be in error, and when it is considered that many able minds differ from mine, it would seem to others probable that I do err. Yet I am firmly convinced of the correctness of my judgment, and whilst I repeat that I act on my own judgment, I am not unmindful that a large number of the Senators and Representatives coincided with me in opinion and that a respectable share of the intelligence and legal talent of the State, deem my opinions as to the Florida Rail Road sustained by the law and the facts, but these coincidences of opinion can but give me confidence in my judgment. They do not form the basis of it.

Having stated the reasons why I shall continue to withhold my signature from the Bonds of the Florida Railroad, you have decided by a majority vote to sign and pledge the Internal Improvement Fund to pay the interest upon, I

deem it further to be my duty to lay before you such other and further facts as influence my judgment and which I believe to be entitled to weight and consideration on your parts, all of which I request you in your official capacities to investigate, deeming that the public interest demands such investigation, and that if the facts be as I shall state them on the evidence before me, it is incumbent on you as members of the Board and on me as Governor of the State, not only to decline giving further aid to the Florida Railroad Company, but to take efficient measures to guard the Internal Improvement Fund against the injury which the facts I shall adduce would seem to indicate as having been already inflicted.

Before proceeding to state the matters alluded to, I will premise by saying that I am not insensible to the appeals which have been made through the public Press, and in the Legislative Halls, against any action on the part of the officers of the State, or of individuals, which may discredit any of our public works. I argue that our State needs Railroads, and that all who seek to provide them, should be encouraged and not hindered by vexatious proceedings on the part of the State or its officers.

I have ever been an active advocate and an ardent friend of judicially planned and honestly managed public works, regarding them indispensable to the development of the resources of our State, and highly promotive of the success and prosperity of her citizens. But whilst the constitution provides for the encouragement of a liberal system of Internal Improvements, and the public wants demand that this provision of the constitution should be faithfully executed, I deem that in our anxiety to fulfil the duty we owe to the State so imposed by the constitution and laws, we should not perform it at the sacrifice of other equally important and essential obligations. We need Railroads, and in my judgment, with the material aid so liberally bestowed by the State and Federal Governments, we have the ability to construct all that our wants demand, and that, too, without inflicting injury upon the Internal Improvement Fund or wounding the credit of the State, which has scarcely recovered from the improvident acts of the Territorial Government.

Railroads are useful, but State credit is a pearl above all price. It is easily tarnished and to be kept without blem-

ish, should be carefully guarded. When, therefore, a magistrate, charged to protect the public interest, or any Legislature, or officer of the State or private citizen calls public notice to acts of any Railroad Company which are calculated to damage the State, or seriously to affect the fund provided to aid in the construction of our public works, inquiry should not be diverted or investigation smothered by the fear of doing harm to other Railroad enterprises. It is only the guilty that need fear inquiry, and it is the interest of all laudable and honest enterprises that improper practice should be suppressed. Whilst our laws have encouraged the formation of companies to build the lines of road in the law provided for, by liberal donation of lands and pecuniary aid, it certainly never was designed for persons to assume the execution of these works on fictitious capital and without actual means of their own. The aid of the State given in land and by guarantee of money to pay interest, presupposed that the capital stock of the several Railroad Companies would be subscribed and paid in, and that such actual capital would build the road-bed and superstructure at least. When it was provided that the money paid out of the Internal Improvement Fund for interest on the Bonds should be replaced by stock in the Roads, it was expected that those who had subscribed for stock in the Roads would pay for it, and that being done, the stock would be of some value. In the cases of the Tallahassee, Pensacola & Georgia, and Atlantic & Gulf Central Railroads, this expectation has been realized, and any stock which the Trustees may obtain in these Roads will place the Fund on an equal footing with other stockholders, for the stock subscribed and taken by these Companies has been paid in and appropriated to the grading and superstructure of their Roads. Having thus premises these remarks, I now call your attention to the Bonds issued before the Company had any titles to the lands granted, and to which they might never have title—they only become entitled to the land when the Road is built.

Here then we see, that although we get stock in the Road for the money we pay for interest, we not only have an amount issued to us inadequate to the sum paid, but it is likely to prove valueless from the fact that instead of the Road starting in debt only for the iron and equipments, and with the sales of the land to look to as a fund, together with the earnings of the Road, to meet the iron bonds,

it starts with a large debt on which it must pay interest out of the earnings, and that the sales of the lands will be absorbed in paying the land bonds. This scheme is not a novel contrivance. It was invented in Wall Street and in the parlors of Western Railroads, and was well planned, whereby certain shrewd individuals, under the specious guise of great public spirit, undertook to make public improvements, and with but little capital or credit, took millions of stock in Railroads, got control of large land grants, subsidised the public press and swayed public men from their duty that they might build up enormous fortunes out of the public property.

When Congress and the State passed laws to aid the construction of Railroads in this State, it was not intended that men should seize hold of the stock in the Roads to enrich themselves at the public expense. The State not being able to build Roads alone, invited her citizens to subscribe the stock and build the Roads, offering the lands and the guaranty of interest as a bonus to induce them to invest their capital—not to make feigned subscriptions which they have neither the will nor the ability to pay in, with a view to taxing the public fund with the entire cost of their Roads. It was solid capital alone wanted, and a liberal bonus was offered for it. It was not held out as a premium to invite men to take our bonds and credit, to coin money for themselves, but to inspire our citizens with a spirit of enterprise and enable them to make such improvements as the wants of the country demanded. It becomes our duty, if we have the powers, to keep the credit of the State from being injured by the perpetration of such schemes, which cannot fail to result in loss to all, of course chiefly to others than the projectors. I am of the opinion, gentlemen, that we should demand of the Florida Railroad Company to put the stock held by the Trustees upon an equal footing with that owned by themselves, for I cannot think that it was intended by the Legislature, in providing that we should receive certificates of stock for interest paid, that the stock thus acquired should be placed below that held by individual members of the Company who have paid in not more than 12½ per cent upon the stock subscribed.

This Board has no means of information with respect to the condition and management of the Florida Railroad Com-

pany other than what is to be found in the documents printed by the last General Assembly. How much stock has been paid in cash, by whom paid, what are its debts and what are its resources, we have no information other than that above referred to; and yet we represent as Trustees a sum of seventy-five thousand, seven hundred and seventy-five dollars (\$75,775) acquired by the payment of that sum of interest on the guaranteed bonds of the Company. The only definite information we have is that found in the journals of the General Assembly from which I extract the following official statement of the Hon. Geo. W. Call, Secretary and Treasurer of the Company, viz:

The estimated cost of the Florida Railroad is....	\$3,500,000
This sum included all expenditures and provides a fully equipped Road, with Depots, Station Houses, Wharves and everything necessary to a full business.....	
To pay this the Company have of Internal Improvement Bonds.....	1,655,000
Of Land Bonds, well secured, and which are paid to contractors at par.....	1,500,000
Leaving to be paid on the stock.....	345,000
The Stock is fixed for the present at.....	3,000,000
Should the whole be taken, an assessment of 12 per cent. would produce.....	360,000
Or more than the amount required; but the whole Stock as yet taken is only a little over (\$1,000,000,) one million dollars, the present assessment on which (12 per cent.) would produce...	120,000
And should no more be taken, a further assessment of 12½ per cent. will be required to produce.....	225,000
To make up the deficiency of.....	345,000
Making the total payment on the stock, in any event, only 34½ per cent., or \$34 50 on every \$100 subscribed.....	

From this official statement of the Company, it is apparent that the highest sum they expect to pay upon their shares of stock is \$34, whereas for every share of stock certified them to the Trustees we pay \$100; hence it results that in declaring dividends from the income of the Road, an individual stockholder will receive as much for \$34 as the fund will for \$100 invested.

This I think to be violative of the spirit of the law, and certainly it is unjust and inequitable. It seems to me that it is our duty as Trustees of the Internal Improvement Fund, holding a large amount of stock, to demand an insight into the proceedings of this Company. Other Railroads make no secret of their affairs and have published the usual statement of their business, showing their cash receipts and payments.

In conclusion, I have to say that this statement of my position touching the Florida Railroad Company is made from no unfriendly feeling towards the enterprize, nor from any disposition to respond to the numerous unkind and unmanly assaults made upon me through the newspapers. It simply presents a candid statement of my convictions which form the basis of my action in the premises. I may be in error, yet I do not think so; but in this as in all other matters of a similar character, I will stand ready to abide a judicial investigation of my official conduct, and if pronounced by competent judicial authority to be wrong, will readily yield my judgment to that authority.

Very Respectfully,

M. S. PERRY.

LANDS GRANTED BY CONGRESS TO AID IN THE CONSTRUCTION OF RAILROADS.

By the Act of Dec. 27, 1856, the State of Florida accepted the lands granted by Congress of May 17th, 1856, upon the terms, conditions and restrictions imposed in the Congressional Act, but as yet the General Assembly has made no disposition of said lands except those granted to aid in constructing a Railroad from Pensacola to the State line of Alabama, in the direction of Montgomery.

The great value of these lands to the Railroad Companies renders it highly important that such action should be taken as may be necessary to fully secure said grant to the Companies beneficially interested therein. Such action would be simple and said object could be easily accomplished, were each of the lines of road named in the Act of Congress to be constructed by a single company, but inasmuch as several on each line claim the right to construct portions thereof,

a conflict of interest arises which places some obstacles in the way of an equitable adjustment. A difference of opinion exists as to the necessity or propriety of any further legislation than that in the 21st Section of the Internal Improvement law, as will appear by reference to the proceedings of the Senate at the last session of the General Assembly, pages 365, 397.

I think it is clear, as expressed by the Attorney General, to whom this question was referred, that "if it is considered that the lands along the route are by the Internal Improvement law and the Act of Congress granted in common to the several Railroad Companies constructing a particular line of road, then further legislation is necessary to distribute them between the companies." And I think it equally clear that the lands along the route were granted in common to the several Railroad Companies constructing a particular line of road. By the Act of Congress these lands were granted for the purpose of aiding in the construction of Railroads between certain points, the termini of each road being specified and fixed, with a provision that "the lands granted on account of said roads and branch shall be exclusively applied in the construction of that road or branch for and on account of which such lands are granted."

It seems to have been considered that, without such provision, the act might have been construed as granting the lands in common to all the roads and branch named, and in declaring the intention to be otherwise, Congress has provided that the lands on each side of the road from Jacksonville to Escambia Bay shall be exclusively applied to the construction of the road from Jacksonville to Escambia Bay, and so on with the other roads and branch.

There is no mention of a road from Jacksonville or the waters of Escambia Bay, or from Amelia Island or Tampa or Cedar Keys, to any intermediate point. That each of said roads was by the Act of Congress considered as one road, for the whole distance between the termini specified, and

that the grant to each was a grant in entirety, is as clearly expressed as it would have been had the question been raised at the time and the act had been framed specially in reference thereto. As further evidence that the intention of Congress was as above stated, I refer to the 3d and 5th sections of the Congressional Act. By these it will be seen that the grant is not a naked gift, a simple donation. On the contrary, certain conditions must be complied with, some consideration is to be given for the benefits received.

These sections provide that "the said Railroads and branch shall be and remain public highways for the use of the government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States," and also that the United States mails shall be transported over such roads and branch at such price as Congress may fix by law or the Postmaster General may determine. It surely was intended to provide for the transportation of troops, mails, &c., across the entire route in consideration of the lands granted, the entire road bearing the burden imposed and receiving the benefits conferred. And while, in my judgment, the true meaning of the Act of Congress is as above stated, the construction I have placed upon it seems to me to be the one best calculated to render equal justice between the parties interested. The principle contended for by some that each company is entitled to all the lands lying on each side of the road constructed by them, whether taken in place within the six miles limit, or as indemnity within fifteen miles, would work manifest injustice in some cases and should not be insisted upon unless it is really the true construction of the Act. By such a rule one company might be deprived of all benefit under the grant, or the value of the lands received might be so small as to be no inducement for accepting the same under the conditions imposed. In such event there is nothing in the Internal Improvement law which forces upon any Railroad Company the acceptance of the grant by Congress and compels them

to transport the property or troops of the United States, "free from toll or other charge," and should a company thus situated decline to accept the lands on the conditions imposed, it would result in a failure on the part of the State to fulfil the contract she made with the General Government when she accepted the grant "upon the terms, conditions and restrictions in said Act of Congress." The State cannot rightfully and lawfully receive the benefit of the grant for a portion of the route where the lands are valuable, and reject it where they are not valuable. And even if the roads by their acceptance of the provisions of the Internal Improvement law could be compelled to fulfil the contract of the State with the General Government, that would be a strong argument against any construction which would deprive a company of their proportion of the lands, for it would clearly be unjust to force upon them their proportionate share of the burthen without extending them a *pro rata* share of the benefits and advantages. Unless the grant is taken as an entirety, and so considered in the disposal thereof, the effect will be to give to some of the companies but a small amount of lands, while the other companies will receive their full quota and have an excess of about one hundred thousand (100,000) acres to revert to the United States, thus depriving the State and the Internal Improvement interests of that much land.

By the first section of the Act of Congress, after granting lands in alternate sections for six sections in width on each side of certain roads, it is provided that where the United States have sold or otherwise disposed of any of said lands, it shall be lawful for any agent or agents to be appointed by the Governor of this State to select other lands in alternate sections within fifteen miles, to supply such deficiency. Under this provision I did, on the 7th day of September last, appoint Henry Wells the agent for the purpose of making said selections.

DRAINING OF THE SWAMP AND OVERFLOWED LANDS OF THE OCLAWAHA RIVER.

The improvement of the navigation of this important river, together with the draining of the overflowed banks thereof, has, by action of the Board of Internal Improvement and by resolution of the General Assembly, been one of the subjects of the liberal system of internal improvements in our State. In September, 1858, the Board passed the following resolution:

"*Resolved*, That the Board of Trustees will grant proper portions of Swamp Lands alternately, not exceeding one section alternately one mile deep, on both sides of the Oclawaha river, from its mouth to Lake Apopka, to any person or persons who will undertake to remove the logs, sand-bars and rafts, and make the necessary cuts and ditches to deepen the channel of said river, with a view to reclaim the Swamp Lands adjacent thereto, so that the same shall thereby be enhanced in value, and that the Governor be requested to communicate this resolution to the chairman of said Convention."

The above resolution was promptly communicated by me to the chairman of said Convention, but as the remuneration for the labor and outlay contemplated by this resolution is to be made in lands, no one of sufficient capital has been found to undertake it.

At the late session of the Legislature, a resolution was passed instructing the Board of Trustees to consider the drainage of said Lands and recommending the employment of a competent Engineer to make survey, &c., and make plat estimate, &c., and report to the Trustees.

No Engineer has been appointed by the Board, and the work is no nearer being commenced than it was in 1858. I would respectfully suggest that the salary of such an Engineer and the expenses of the outfit, together with the expense of the survey, estimates, &c., would be perhaps as much as one half the cost of the drainage, and therefore should be avoided if possible.

As long ago as 1835, while we were a Territory, Congress,

on the report of its value in military operations, voted an appropriation of \$10,000 for the improvement of the navigation of this river. The Indian war prevented the work, and when we became a State this grant reverted to the Treasury.

More recently, in 1853, the enterprising citizens of Marion and Putnam counties secured the services of John M. Irwin, a competent Civil Engineer, who is represented to be a very practical man, to make a survey of said river, with a view of improving its navigation and draining the lands on either side thereof. Mr. Irwin made a thorough examination, at considerable expense, and made the following report, which was at that time published in the "Florida Mirror," to-wit:

THE OCLAWAHA.

Messrs. Editors:—Dispensing with the customary preface, and special pleading in such cases, I deferentially submit to your dispassionate consideration, and by you, to all who may feel an interest in the matter, a succinct synopsis of an *exploring expedition*, recently undertaken by me, in order to ascertain the practicability and probable expense of making the Oclawaha navigable for steamboats, from its mouth to Silver Springs. The length between these two places is about one hundred and five miles, comprising six hundred sinuosities. The number of snags or logs in the water, is sixteen hundred and thirty five; and the number of trees leaning over it, (exclusively of a great many bushes,) is two thousand seven hundred and ninety-four. The number of runs or branches from and weakening the main channel, is seventy-four. The cause of these branches, or veins, is attributable to fallen trees, and rubbish, damming the river in many places, thereby forcing considerable portions of the water from its natural course, into other runs, which, after meandering for short distances through the swamps, rejoin and improve the parent artery. This is especially the case at each of the places designated, respectively, as the Dardenels—the Upper Narrows, and Lower Narrows, which would have to be widened. The other impediment is the Rocky Shoal, one hundred and fifty yards in length. Many of the acute angles, or elbows, of the river windings being of alluvial deposit, of recent formation, and over grown only by fragile shrubs or aquatic plants, are susceptible of cheap and easy improvement, and of course, the river navigation in proportion. Such is a specification of the obstructions to the Oclawaha navigation. An estimate of the expense of removing them I make on the following

hypothesis. Some of the snags are of huge dimensions, would have to be sawed under water into several pieces, and their removal cost ten dollars each in consequence: the greater number would cost only one dollar, admit their removal then to cost \$2 50 each on an average. The leaning trees would all inevitably fall into the river after being cut, unless prevented by trouble and expense that would exceed their clearing away after allowing them their natural propensities. Allow the removal of these to cost \$2 each. One hundred and fifty yards of rock, by ten yards wide, and one yard deep, equal to fifteen hundred cubic yards to be blasted and quarried under water would cost \$1 50 per cubic yard. Three hundred and thirty yards in length, of the Narrows to be widened five yards, and deepened two, equal thirty-three hundred cubic yards of earth, over-grown by gigantic cypress trees, and partly submerged in water, the excavation of which would cost \$1 per cubic yard. Pile-driving in and stopping the heads of seventy-four runs or outlets, at \$25 per head. Cutting away one hundred and twenty sharp elbows say at \$10 each:

RECAPITULATION:

1635 snags,	\$2 50	each,	\$4,087 50
2794 leaning trees,	2 00	"	5,588 00
1500 cubic y'ds. of rock, quarrying,	1 50	per yard,	2,250 00
3300 cubic y'ds. excavation of earth			
with roots, &c.,	1 00	"	3,300 00
74 heads of outlets, stopping,	20 00	each,	1,480 00
120 elbows, clearing,	10 00	"	1,200 00
			<hr/>
			\$17,905 50

Nearly \$170 00 per mile.

No doubt a less sum than this would sufficiently improve the navigation for boats of appropriate build, under the skilful vigilance of a pilot well acquainted with the river. But to make the navigation easy, safe and permanent this sum would be indubitably required for steamboats of 70 feet keel, 20 beam, and of 4 feet draft.

Upon consultation with those who are well acquainted with the navigation of this river, whose practical knowledge of the course of the water in overflowing the banks of the river and in whose judgment I have every confidence, I am satisfied the said report and estimates made by Mr. Irwin are as good and as well adapted to accomplish the object as any new survey and estimates would be, if not better.

It is doubtful whether this work can be accomplished by

offer of remuneration in lands, and if it could be it is questionable whether it would be economy to the State. If the lands are enhanced in value by the improvement, the State fund will be so much increased thereby, which would be so much better than having speculators reap the benefits thereof. I therefore recommend the adoption of the plan of work suggested by Mr. Irwin, to be extended to Lake Apopka; that an appropriation be made therefor and the Board of Trustees authorized to put out said work by contract to the lowest bidder.

INDIAN AND ST. JOHN'S RIVER CANAL.

I would call your attention to the very able report of the Hon. Wm. A. Forward, chairman of the Board of Canal Commissioners of Indian and St. Johns river Canal, which is herewith annexed.

The Canal is named in the 4th section of the Internal Improvement law as a proper object to be aided from the Internal Improvement Fund, and the 17th section indicates the amount of said aid and the conditions under which it is to be derived. By reference to the report of the chairman, it will be seen that the Board of Commissioners have complied, on their part, with all the requirements of the law and only await the action of the Trustees to enable them to commence the work. The Canal is regarded by those in whose judgment I confide as not being second in importance to any work contemplated by the Internal Improvement system, and worthy of the fostering care of the State. The most of the Internal Improvement Fund comes from the Peninsula of Florida, and the region in which it is proposed to construct the Canal lays no claim to a railroad.

THE TRUST FUND.

This Fund is pledged to pay the interest as it may become due on all the bonds issued by any Railroad Company constructing any portion of the several lines of road indicated in the 4th section, under the provisions of the "Act to provide

for and encourage a liberal system of Internal Improvements in this State," at the rate of ten thousand dollars per mile, for the purchase of iron rails, spikes, plates, chairs and equipments, whilst in progress of construction, and after completion, should any of the Companies fail to supply the interest upon their bonded debt from the net earnings of the traffic of their roads.—(See sections 3, 4, 8, 13, 27, Int. Imp. law.)

Thus it will be seen that in any event the entire Trust Fund is pledged to pay the interest as it may become due on all the bonds issued by any Railroad Company (constructing any portion of the lines of road contemplated,) under the provisions of the Internal Improvement law.

That the ten or twelve million acres of land which constitute the Internal Improvement Fund are intrinsically of great value will not be questioned, but whether the Trustees will be able to meet promptly the interest as it may become due upon the bonds issued under the provisions of the Internal Improvement law, is problematical. It was doubtless the opinion of the framers of the law that the Trust Fund would prove amply sufficient to meet promptly all drafts upon its treasury incident to the construction of the several objects of internal improvement therein named; and it will prove more than sufficient if it can be made available to meet the rapidly increasing interest account upon the bonds issued and being issued to the different Companies under its provisions. These bonds, it is presumed, have chiefly passed into the hands of third parties, who, in purchasing, relied upon the good faith of the Trustees to meet their engagements promptly, and the right of the Trustees to continue to guarantee the interest upon the bonds of the different Companies, without a reasonable probability of being able to pay the interest as it may become due, involves a high moral question at least. Besides, equity and justice demands that the Fund should be so husbanded, if possible, as not only to be able to meet promptly its present liabilities, but to extend also the same facilities in the construction of the unfinished

portions of the several lines of road contemplated by law that have been enjoyed by the different Companies up to the present. The unfinished lines of road constitute, in the judgment of many, as important a feature in the system, and will confer as great benefits to the citizens in the districts of country penetrated, and add as much to the wealth and importance of the State, as the lines of road now in progress of construction. The Fund is a common one, in which every citizen of the State has a direct interest, and the system must be regarded as incomplete as long as a single mile of road remains unfinished. That this sentiment will be responded to by every good citizen in the State I do not entertain a doubt, but how it is to be accomplished is a question more easily asked than answered.

Should the Companies of the several lines of road now rapidly approaching a completion be able to supply the interest on their bonded debt after completion, the way is clear. The assets of the Fund, together with the sums accruing from the sale of lands, will perhaps be sufficient to provide the interest as it may become due on all the bonds that can be issued under the provisions of the law to complete every mile of road.

The different Companies have now issued (Bridge bonds included,) above two million of bonds, which amount will soon be increased to three and a half million, requiring \$250,000 annually for interest—a greater sum than the Fund can probably supply, unless the sums accruing from the sale of lands should increase, or the different Companies should be able to provide for or very materially aid in the payment of interest as it may become due. The history of railroads would seem to preclude the hope of success to all the different Companies in a sufficient degree to enable them at first to provide the sinking fund and interest upon their bonded debt from the net earnings of the traffic of their roads, and any considerable failure on their part to make such provision, or increased issuance of bonds by the Com-

panies, would very soon exhaust the treasury of the Trust Fund and bring discredit upon the guaranteed bonds to such extent as to render them unavailable in the construction of the unfinished lines of road.

I may have presented the dark side of the picture, but the subject is one of great importance, affecting the vital interests of the State, and should be carefully examined in all its bearings, and such action had as will most certainly enable the Fund to accomplish successfully every object of Internal Improvement contemplated by the law, and meet promptly all obligations incident thereto.

As a means of accomplishing this desirable end, I would respectfully suggest that the Legislature instruct the Trustees to receive the bonds of the several Railroad Companies that have accepted the provisions of the Internal Improvement law, upon which the interest has been guaranteed by them under its provisions, for any lands belonging to the Trust Fund, at the prices now fixed, three months notice of said intention having been given through the principal newspapers in the different sections of the State. As before stated, the lands are now pledged for the payment of interest whilst the roads are in course of construction, and, after completion, should the companies be unable to supply the interest upon their bonds from the net earnings of the roads. Should the companies be unable to provide the interest, all sums which may accrue from the sales of land, &c., will be absorbed in payment of the same, the companies assigning stock to the Trustees for the sums thus paid. The lands are variously rated at from one to ten dollars per acre, and should the least valuable be selected, it would only require about three million acres to take up all the bonds that may be issued by the different companies for the several lines of road now rapidly approaching completion, and would leave still nine million acres of land to the Trust Fund. Could the Trustees exchange lands for the bonds of the different companies upon the terms above indi-

cated, all sums accruing from the sales of land, together with the net earnings of the roads, deducting one per cent. for sinking fund, would perhaps constitute a fund adequate to provide the interest for every mile of road, as contemplated by the Internal Improvement law. The officers of the several companies should be required to report to the Trustees semi-annually, under oath, the operations of the roads, and to pay into the treasury of the Trust Fund one per cent. for the sinking fund and the interest upon their bonded debt, provided so much be realized from the net earnings of the roads, in accordance with the provisions of the law, and assign to the Trustees stock from time to time for all deficiencies that may occur from non-payment of interest upon the bonds of the companies held by the Trustees.

CODIFICATION OF THE LAWS.

I desire to call attention of the General Assembly to the condition of the statute law of the State. The several Legislatures since the compilation of Thompson's Digest, in the year 1847, have made additions and amendments of the most important character to our statutes, and laws have been repealed and re-enacted in such a manner as necessarily to produce confusion. These statutes, moreover, are scattered throughout a number of pamphlets in a most inconvenient and inaccessible form, so that it requires the most diligent research and much legal knowledge to ascertain what our statute laws are on many subjects of importance, if indeed such information can be satisfactorily obtained at all. This is undoubtedly a great evil. One of the first objects of the government under our political system should be to make the laws plain and easily accessible to the whole body of the people. On this depends the proper administration of justice, the regularity of legal proceedings, and the direction and security of the people in their business transactions. From these considerations I am im-

pressed with the necessity of a new digest, or a digest and code of laws for our State. A digest of our existing statutes is necessary at this time, and as a codification of our laws would cost but little more and be of much greater advantage, I suggest that it would be decidedly preferable to combine the two objects, if such can be done. The old statutes of the Territory and State are in many respects defective, both as to form and substance, and a regular, consistent and simple code, based in principle and policy on our existing statutes, could be substituted for them with much advantage. I believe that most of the other States have adopted this method and found it of the greatest utility. The benefits of such a revision and compilation will be experienced most, perhaps, by the body of the citizens and the numerous subordinate officers of the government throughout the State, though to the higher judicial, legislative and executive functionaries it must be of great use and convenience. Such a compilation can be made on a concise and economical basis, and I know of no object for which the same amount can be expended more to the benefit of every individual member of the State. I ask your attention to the subject at this time, because postponement will but increase the difficulty and expense of that which must ultimately be done, and prompt attention to the matter will prevent much embarrassment, uncertainty and confusion, which is inevitable in the present condition of our statutes.

LUNATIC ASYLUM.

In my annual message I invited your attention to the subject of a Lunatic Asylum in language as follows: "I am advised that there are at the present time several insane persons in the State who will probably be sent off to asylums in other States as soon as the requisite judicial proceedings are had. Some of these persons have estates adequate to the expenses of their maintenance, but others are destitute and must be chargeable to the State. It is due to the State

and to humanity that some more permanent provision should be made for this unfortunate class of persons, and to this end I have consulted some experienced mechanics, and have been advised that a building of suitable dimensions for the accommodation of 35 or 40 subjects may be erected and completed in the most desirable manner for about twenty thousand dollars, (\$20,000,) and that it may be so constructed as to admit of enlargement by the erection of other buildings as may be necessary or desired. I therefore earnestly recommend that the initiatory steps be at once taken, by the passage of an act providing for the erection of a building which may *form the nucleus* of a well-appointed asylum, adequate to the wants and comfort of this class of the afflicted of our own State; that it be provided in such act that such lunatics or insane persons as have estates adequate to their maintenance be charged therewith, at such rate as the General Assembly may think just and right, and that the State be charged with the maintenance of such only as are destitute." The current annual expense for the maintenance of lunatics in other States is \$2,636 61, which is equal to the interest on thirty-seven thousand six hundred and sixty-five dollars 85 cents, (\$37,665 85,) at 7 per cent. As this item is gradually increasing, it would be better, on the score of economy even, to provide a suitable building for this unfortunate class of persons in our own State. I earnestly recommend this subject to your serious attention.

FEDERAL RELATIONS.

Prominent among the purposes for which the Union was formed and its Constitution "ordained," as announced by its patriotic founders, was "*to insure domestic tranquillity.*" As regards this purpose, passing events go to show that the work of the statesmen of 1787 is likely to prove a melancholy *failure*. Does the Union "insure," does it any longer *promise* otherwise than in words of mockery "to insure" to the Southern States of the confederacy, "domestic tranquillity?"

Is it not manifest that in the bosoms of the members of the party now dominant throughout the North, all fraternal feeling towards us of the South is entirely dead? When reminded of their constitutional obligations, obligations fixed upon them alike by the letter and spirit of the Constitution, they appeal to a "higher law." Having virtually annulled the written compact, there is no question that they would proceed to withdraw from the Union but for the fact that, along with great pecuniary advantages, it furnishes them facilities which they would not otherwise enjoy for the prosecution of their designs against the institutions of the South.

That these hostile designs will continue to be prosecuted, so long as the confederacy lasts, would seem to be as certain as any thing of the future. No less than this has been publicly avowed by one having authority to speak, in language which admits of but one construction. The northern statesman, most honored and trusted by his section, and whom that section manifestly intends to place at the head of the General Government, instead of the tranquillity which the Constitution guarantees us, has proclaimed an "irrepressible conflict," which means and can mean nothing but war from generation to generation upon that institution which lies at the basis of southern prosperity, power, civilization and happiness. As a sequel to that announcement, following in the due order of events, comes the development, not without bloodshed, of a plot concocted in the North for the liberation of the slaves of the South by a general insurrection.

There can be no doubt that the so-called Republican party, comprising a majority of the Northern people and thus to all intents constituting the North, are responsible for John Brown's scheme of mingled villainy and folly. That party, the Northern people by the elections which have occurred since the Harper's Ferry catastrophe, exhibit an unmistakable purpose of continuing in power.

Its two great engines of influence, the press and the pulpit,

are daily becoming more insulting and aggressive towards our institutions and people. What else, then, have we to expect, *while the Union continues*, but the repetition, no one can say when, where, how often, or with what bloody issues, of attempts like that lately thwarted in Virginia?

It is worthy of a passing thought, that though African slavery is no longer an institution of most of the leading powers of Christendom—several of them, in whose dominions it once existed, having abolished it—yet none of them show any disposition to interfere with its existence *here*. The only States that threaten our peace, are States united with us by that bond of Union, the Constitution, designed to throw itsegis of protection over all.

Great Britain, much as she has done and suffered in the cause of abolition, and though her flag waves over her own soil, nearly within sight of the southern coast of Florida, attempts nothing for the disturbance of our repose. She knows too well, and recognizes too fully, the obligations of International comity. We neither fear her, nor have reason to fear her. Our aggressions come from quite other than *foreign* sources. They come from men who madly think, that because connected with us in our Republic, they are answerable for our sins, and authorized, by virtue of this responsibility, to wage a war of extermination against our Institutions.

You will find no difficulty in perceiving the drift of these reflections, nor do I consider it becoming either in myself or the occasion to deal in language of doubtful import.

True, Florida, as the youngest and least populous of the Southern sovereignties, can only follow in action the lead of her sisters, yet this constitutes no reason why, at a time demanding the freest conference and frankest expression among those joined by a common destiny, she should remain silent. I believe that her voice should be heard in "tones not loud but deep," in favor of an eternal separa-

tion from those whose wickedness and fanaticism forbid us longer to live with them in peace and safety. There are good grounds for the hope that most of the Southern States will not consent to see the General Government pass into hands avowedly hostile to the South. If such is their purpose, it is not unlikely that they will prepare for the emergency of the approaching Presidential election.

What, if any, steps will be necessary, on your part, to provide for Florida's co-operation with them in the contingency suggested, I leave for the wisdom of the Legislature to determine.

MILITIA AND PATROL LAWS.

In this connexion I deem it proper to call your attention to the disorganized state of the Militia and inefficiency of the Patrol Laws.

By examining the Patrol laws of the State it will be found that they are based upon a military organization. In the absence of the Captain of a Company, the duty imposed upon him is devolved upon the magistrate, yet, it will be seen at a single glance that the whole scheme and plan of patrol was based upon the idea of a military organization.

The Legislature at an early day passed laws organizing and regulating the Militia, but from some cause the whole scheme proved a failure. It is not intended to be suggested that our State should be converted into a military camp, or that our citizens should be harrassed by needless drill and exercise. But it is highly proper in view of passing events that the militia should be thoroughly organized, armed and officered to be able to render efficient service in cases of sudden and pressing emergency. The ordinary civil patrol authorized by law would be sufficient for common occasions; but emergencies might unexpectedly occur requiring the aid of the military, and for such emergencies we should not be wholly unprepared. Our State has been so far happily exempt from those frightful tragedies enacted elsewhere, but the same elements of mischief exist

among us, and our peace and security may be disturbed by the same causes which have operated in other places. Such apathy and indifference has been manifest in relation to the laws regulating and governing the militia that I am at a loss to suggest a course by which the evil would be remedied.

But in view of the pressing emergency for a thorough organization, I would respectfully recommend that all the militia offices in the State be vacated, that the Governor be required to order an election at an early day to fill every militia office in the State, that he be empowered to fill by appointment all vacancies that might occur by a failure of the citizens to elect, and the officer or officers thus appointed, to be compelled to serve under penalty, for twelve months from the date of said appointment. In order to encourage the organization of volunteer companies throughout the State, I would recommend that provision be made by which all persons subject to militia duty might commute the same by the payment of a *per capita* tax annually, which sums should constitute a fund to arm and equip the volunteers companies; provided said companies should drill at least twelve days in each year.

The laws governing the militia should be so amended as to insure a summary collection of all fines imposed by courts martial, and should apply to the volunteer companies as well as the militia.

Desiring that your actions may redound to the public good, I invoke the blessings of Divine Providence upon your deliberations.

M. S. PERRY.

On motion of Mr. Baker, the further reading of the message was dispensed with, and one thousand copies of the same ordered to be printed, and that so much of the same as refers to the several matters as to which there are Standing Committees of the Senate, be respectively referred to the said committees.

Mr. Baker gave notice that on some future day he would ask leave to introduce the following Bills and Resolutions:

A bill to be entitled an Act amendatory of the several Acts of force in this State in relation to dower;

A bill to be entitled an Act amendatory to the several Acts of force in this State as to free negroes or persons of color;

A bill to be entitled an Act to establish the Offices and Courts of Vice Chancellor in the several counties of this State, and define the duties thereof;

A bill to be entitled an Act to provide for the publication of a Digest of the English Statutes of force in this State;

A bill to be entitled an Act to provide for the publication of extra copies of the Statutes and Journals of the several Sessions of the State Legislature and for the sale of the same by the several Judges of Probate in this State;

A bill to be entitled an Act to punish trespassors upon the Overflowed and Swamp Lands of this State, and requiring the several Solicitors of this State to institute suits for trespasses already committed;

Joint Resolution for the relief of Gen. Benjamin Hopkins, and other persons therein named;

Joint Resolution for the relief of Spencer L. Thomas;

Joint Resolution for the relief of William Newbern, a soldier of the War of 1812-'14; and,

Joint Resolutions repealing and repudiating the Resolutions heretofore passed by the Senate, December 28th, 1847; passed by the House, December 29th, 1847, and approved December 30th, 1847.

On motion of Mr. McElvy, the Messenger was instructed to furnish each Senator with a printed copy of the Standing Committees and Rules of the Senate and of the Joint Rules of the two Houses of the General Assembly.

The following message, with the accompanying documents, was received from his Excellency the Governor:

EXECUTIVE DEPARTMENT, }
Nov. 29th, 1859. }

Gentlemen of the Senate and House of Representatives:

I communicate herewith a copy of resolutions passed by the Legislature of Georgia, and copies of letters addressed to the Executive of this State, and to Col. D. C. Campbell, who has been appointed to confer with me in reference to the difficulties growing out of the unadjusted boundary line between Florida and Georgia.

I have not hesitated to express to Col. Campbell, in a reciprocal spirit, my desire to maintain a good understanding and friendly relations between the people of the two States, and to assure him that this Department will not fail to adopt such measures as may be needful to prevent any difficulties that may be apprehended on the bor-

der. Under the resolutions of the last session ratifying the action of the Executive of the two States, in adopting the terminal points of the present recognized line, I have appointed a competent Surveyor to unite with a Surveyor on the part of Georgia, in running and marking the line between the two States. It is therefore expected that all ground of difficulty will be removed at an early date, and the controversy which has heretofore existed be finally put to an end.

It is, however, apprehended that in the final establishment of the line, litigation may arise in respect to the title of land, which may fall within the jurisdiction either of Georgia or Florida, and I am assured that with respect to any litigation which may occur in Georgia, the Executive of that State will recommend to the General Assembly such legislation as may be necessary to perfect titles in the hands of bona-fide holders. I would respectfully recommend to your favorable consideration such action as you may deem best to effect a similar purpose so far as this State has any jurisdiction over the subject.

I would, however, suggest, that in all probability, if any land shall fall within the jurisdiction of this State, in the final designation of the line, the title would more properly attach to the United States, in which event this State could do no more than unite with Georgia in an application to the Federal Government for the adoption of such measures as would most effectually secure the end desired. With respect to any Criminal Prosecutions that may grow out of conflicts between those residing in the disputed territory, I deem it proper to observe that I shall be animated by the same spirit, and pursue the same course, if need be, proposed by the Executive of Georgia; and if the General Assembly shall deem it necessary to clothe the Executive with further power for that purpose, I respectfully recommend the proper action to that end.

Very Respectfully,

M. S. PERRY.

(COPY.)

EXECUTIVE DEPARTMENT, }
MILLEDGEVILLE, GEORGIA, Nov. 23d, 1859. }

His Excellency MADISON S. PERRY,

Governor of Florida.

Dear Sir:—Allow me to introduce to you, the bearer of this, Col. D. C. Campbell, of this city. Col. Campbell has been appointed by me, a special agent on the part of this State under a resolution of its General Assembly, to visit and confer with you in relation

to existing and anticipated difficulties growing out of the unadjusted question of the boundary line between the States of Georgia and Florida.

The resolution under which he is appointed will be shown to you by him.

It evinces as you will perceive the solicitude of Georgia for the maintenance of good neighborhood between the two contiguous States, and her determination while the boundary remains unadjusted, to do all in her power to repress agitation and prevent excitement.

The agent on the part of the State will submit to your suggestions, emanating from this Department, and will cordially entertain, and to the extent of his authority act upon any, that may be submitted by you.

Entertaining the hope that the result of this agency will prove beneficial to the interests of both States,

I am very respectfully,

Your obedient servant,

JOSEPH E. BROWN.

(COPY.)

EXECUTIVE DEPARTMENT, }
MILLEDGEVILLE, GA., Nov. 23rd, 1859. }

To Col DAVID C. CAMPBELL:

Sir—In pursuance of a Resolution of the General Assembly, under which you have been appointed a Special Agent to visit Tallahassee and confer with the Executive of Florida, you will at your earliest convenience enter upon the duties confided to you. You will express to the Governor of Florida the solicitude of the General Assembly of Georgia, and of this Department, to maintain uninterrupted the kindly relations that have heretofore existed between the people of the two States, and which unfortunately have recently been disturbed in certain sections, growing out of the unadjusted boundary line that divides them.

You can tender to him the assurance that every effort in the power of this Department will be put into exercise, not only to have the boundary line settled as early as practicable, but to prevent, till that object shall be accomplished, any of the difficulties or animosities that may be apprehended among the people residing in that region through which the line of boundary may ultimately be established. To this end you can assure his Excellency that should litigation take place in the Courts of this State, in relation to lands under Florida grants, which, when the boundary line shall be designated, shall

fall under the jurisdiction of Georgia, that this Department will recommend to the General Assembly of this State, such legislation as may be necessary to perfect titles in the hands of "bona fide" holders; and you can also assure him that should criminal prosecutions, growing out of conflicts between those residing in the disputed territory be instituted in any of the Courts of Georgia, that this Department will request that *nolle prosequis* be entered.

You will ask the Executive of Florida, on his part, to reciprocate these efforts to maintain peace and good order among the borderers and protect titles in bona fide land owners. In short, you will confer fully with the Governor of Florida in relation to all existing and anticipated matters of controversy among the borderers, ascertain his views in regard to the best mode of quieting, removing, or preventing them, and freely pledge the co-operation of the authorities of Georgia in all reasonable efforts to accomplish objects so desirable.

The result of your mission you will report to this Department.

Very respectfully,

Your obedient servant,

JOSEPH E. BROWN.

(COPY.)

Whereas, There is likely to occur serious border difficulties between the citizens of Georgia and our sister State of Florida, on account of a conflict of jurisdiction of the Courts of the two States, involving the sovereignty of said States; *and, whereas*, it is incompatible with the character of the two Governments between which the most friendly relations should exist, that any collision should occur between the citizens thereof;

Be it resolved therefore by the General Assembly, That the Governor be authorized to appoint a Special Agent to visit Tallahassee, the Seat of Government of the State of Florida, to confer with the Executive of the said State of Florida, and to enter upon such negotiations as will restore quiet, and prevent blood-shed between the citizens of said States, until the boundary line of said States is adjusted and agreed upon.

I. T. IRWIN,

Speaker of the House of Representatives.

S. L. GUERRY,

President of the Senate.

In Senate, read and agreed to, November 17, 1859.

FRED. H. WEST,

Secretary of Senate.

In House of Representative, November 19, 1859.

JAMES L. DIAMOND,

Clerk House of Representatives.

Assented to November 22, 1859.

JOSEPH E. BROWN, Governor.

STATE OF GEORGIA,
EXECUTIVE DEPARTMENT,
MILLEDGEVILLE, Nov. 23rd, 1859. }

I, Henry H. Waters, Secretary of the Executive Department, do hereby certify that the within and foregoing is a true and perfect copy of an original Joint Resolution, framed by the General Assembly of this State, and signed in this Department, on the 22nd day of November, 1859.

Given under my hand and the seal of the Executive Department, [L. s.] ment, the day and year first above written.

H. H. WATERS,

Secretary Executive Department.

Which was read.

Mr. Lamar introduced a resolution relative to the establishment of of the boundary line between the State of Georgia and the State of Florida.

Mr. Baker moved that the Joint Resolutions as to the boundary line between the State of Georgia and the State of Florida together with the Message and Documents received by the Senate from the Governor be referred to the Committee on Federal Relations; and that eighty copies of the same be ordered to be printed;

Which was carried.

The President presented the invitation of the Managers of the Odd Fellows' Ball to the Members and Officers of the Senate; and On motion of Mr. Hawes, the invitation was accepted with the thanks of the Senate.

The following Message was received from his Excellency the Governor, which was read:

EXECUTIVE DEPARTMENT,
TALLAHASSEE, Nov. 29th, 1858. }

Hon. JOHN FINLAYSON,

President of the Senate:

Sir:—I respectfully recommend the following nominations for the advice and consent of the General Assembly:

William D. Maclay and George Brockenbrough, Weighers of Cotton for the city of Apalachicola.

Very Respectfully,

M. S. PERRY.

On motion of Mr. Eppes, the nominations therein made were concurred in.

On motion, the Senate adjourned until to-morrow morning at 11 o'clock.

—o—
WEDNESDAY, November 30, 1859.

Senate met pursuant to adjournment.

A quorum present.

The journal of yesterday was read and approved.

Notice was given of intention to introduce at some future day the following bills:

By Mr. Keitt:

A bill to incorporate the town of Ocala.

By Mr. McCall:

A bill to be entitled an Act to correct an error in the printed bill entitled an Act to incorporate the City of Lake City;

A bill to be entitled an Act to authorize William J. Tucker, a minor, to manage his own estate;

A bill to be entitled an Act to change the name of Sarah Keziah Johnson, to Amelia Ann Emeline Johnson;

A bill to be entitled an Act to change the boundary line between Columbia and Suwannee counties.

By Mr. Lamar:

A bill for the relief of Andrew J. Moore and Wm. Dilworth.

By Mr. Hawes:

A bill to be entitled an Act to empower the Trustees of the Internal Improvement Fund, to improve the navigation of the Ocklawaha river, in this State.

Pursuant to previous notice, Mr. Eppes introduced the following bill, which was placed among the orders of the day:

A bill to be entitled an Act to amend an Act concerning dower.

Pursuant to previous notice, Mr. Baker introduced the following bills and resolution, which were placed among the orders of the day:

A bill to be entitled an Act for the relief of Benjamin Hopkins, and others;

A bill to be entitled an Act to organize the Court of Vice-Chancellor of the State of Florida; and

Joint resolutions repealing and repudiating the resolutions passed by the Senate, December 28th, 1847, passed by the House, December 29th, 1847, and approved December 30th, 1847, as to the Wilmot Proviso.

Pursuant to previous notice, Mr. Lamar introduced the following bill, which was placed among the orders of the day:

A bill to be entitled an Act to amend an Act to permit free persons of African descent to select their own masters, and become slaves, approved January 15th, 1859.

ORDERS OF THE DAY.

A bill to be entitled an Act to amend an Act concerning dower; Was read the first time, and placed among the orders of the day, for to-morrow.

A bill to be entitled an Act to organize the Court of Vice-Chancellor of the State of Florida;

Was read the first time, rules waived, read a second time, and one hundred copies ordered to be printed.

A bill to be entitled an Act for the relief of Benjamin Hopkins, and others;

Was read the first time, and on motion, was passed over informally.

A bill to be entitled an Act to amend an Act to permit free persons of African descent to select their own masters and become slaves, approved January 15th, 1859;

Was read the first time, rules waived, read a second time by its title, and one hundred copies ordered to be printed.

Joint resolutions repealing and repudiating the resolutions passed by the Senate, December 28th, 1847, passed by the House, December 29th, 1847, and approved December 30th, 1847, as to the Wilmot Proviso;

Was on motion, the rules being waived, read first and second times by its title, and one hundred copies ordered to be printed.

The following bills were read the first time, and placed among the orders of the day for to-morrow:

House bill to be entitled an Act to amend the laws now in force in this State, relative to ejectment suits;

House bill to be entitled an Act to authorize Samuel Elliott to establish a ferry across the bay from Atseena-Otie, to a point hitherto called Ways Key, now known as the western terminus of the Florida Railroad and designated as Cedar Key; and

House bill to be entitled an Act to establish common schools and